

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
THOMAS P. PELINO, D.O.,	:	90 MED 279
RESPONDENT	:	

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The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Thomas P. Pelino, D.O.  
8651 West North Avenue  
Milwaukee, WI 53226

Medical Examining Board  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

In order to avoid expensive legal proceedings, the parties agree to the terms and conditions of the attached stipulation and the following Final Decision and Order in resolution of this matter, subject to the approval of the Board. Dr. Pelino consents to this order, but reserves his position that his prescription of steroids in this case was appropriate at the time the prescriptions were made.

The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Thomas P. Pelino (D.O.B 10/28/38) is duly licensed in the state of Wisconsin to practice medicine and surgery (license # 15693). This license was first granted on July 19, 1966.
2. Dr. Pelino's latest address on file with the Department of Regulation and Licensing is 8651 West North Avenue, Milwaukee, WI, 53226.
3. On or about April 20, 1990, Dr. Pelino saw patient JP, who presented with a complaint of recurrent neck pain and associated nerve pain. According to Dr. Pelino's patient records, Dr. Pelino had not seen JP as a patient since September 1, 1989.
4. Dr. Pelino failed to enter any April 20, 1990 visit or prescription in the patient records of JP.
5. On April 20, 1990, Dr. Pelino provided patient JP with a prescription

for 100 tablets of Anadrol™, an anabolic steroid, with one refill. Dr. Pelino prescribed this medication to patient JP without charting the medical purpose for this drug.

6. On or about June 15, 1990, Dr. Pelino again saw patient JP and again provided JP with a prescription for 100 tablets of Anadrol™, with one refill. Dr. Pelino prescribed this medication to patient JP without charting its medical purpose.

7. Dr. Pelino failed to enter any record of the June 15, 1990 visit or prescription in the patient records of JP.

#### CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter, pursuant to § 448.02(3), Wis. Stats.

2. The Wisconsin Medical Examining Board is authorized to enter into the attached stipulation and issue this order, pursuant to §§227.44(5), 448.02(3), Wis. Stats and Wis. Adm. Code §MED 10.02(2)(h).

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Dr. Pelino shall participate in and successfully complete an educational program established through the University of Wisconsin School of Medicine, Continuing Medical Education Program (hereinafter "University") by no later than six (6) months from the date of this order. This deadline may be extended by the Board or its agents upon request of Dr. Pelino, but in any event shall not be extended beyond one year from the effective date of this Order. The educational program shall be designed to address the educational needs of Dr. Pelino, as indicated by the results of a structured assessment program conducted by the University. The assessment shall concentrate on the problem areas identified in the Findings of Fact in this action. Further information regarding the assessment is contained in Exhibit 1, attached to this order. Dr. Pelino shall complete this educational program in addition to his required continuing medical education credits under § 448.13, Wis. Stats.

2. Dr. Pelino shall permit the individuals conducting the educational program set forth in ¶1, above, to submit information to the Board regarding Dr. Pelino's participation in the program, including the results of any written or oral evaluations. The individuals conducting the program shall certify to the Board the results of their evaluation and specify whether Dr. Pelino has achieved the course objectives for the program.

3. Dr. Pelino shall permit a supervising physician selected by the University, in cooperation with the Board, to conduct a review of his office and hospital records on a quarterly basis, starting on the effective date of this order and continuing on for a period of not more than one (1) year. Upon the recommendation of Dr. Meyer, the Board may in its discretion shorten the period of review.

- a. The reviewing physician will serve under the direction and supervision of Dr. Thomas Meyer, Director of the University of Wisconsin Continuing Medical Education. Dr. Pelino shall agree to review and discuss these records with the supervising physician on a frequency and schedule acceptable to Dr. Meyer and the Board.
- b. The reviewing physician will submit written reports to Dr. Meyer setting forth the results of each review. If the reviewing physician finds deficiencies in Dr. Pelino's practice, then the reviewing physician shall note the deficiencies in the report to Dr. Meyer, who shall immediately report these deficiencies to the Medical Examining Board. The Board may conduct further investigation of significant deficiencies, which may result in additional disciplinary action against Dr. Pelino.
- c. If the reviewing physician is unable to continue the periodic review of Dr. Pelino's practice, then Dr. Meyer shall designate a new reviewing physician and promptly advise the Medical Examining Board of his or her identity. Dr. Meyer shall submit a final report to the Medical Examining Board at the conclusion of the period of review summarizing the reviewing physician's conclusions regarding Dr. Pelino's practice.
4. Dr. Pelino shall make himself available to appear in response to an invitation by the Board to address any questions the Board may have concerning any reports of deficiencies received pursuant to ¶4, above.
5. Dr. Pelino shall be responsible for payment of all costs of the educational program and expense of the reviewing physician, including charges for professional time required.

IT IS FURTHER ORDERED that pursuant to the agreement of the parties, Dr. Pelino shall pay partial costs of this proceeding in the amount of five hundred and fifty dollars (\$550.00). Dr. Pelino shall pay this amount to the Department of Regulation and Licensing within sixty (60) days of the effective date of this order.

This Order shall become effective upon the date of its signing.

MEDICAL EXAMINING BOARD

By: B. Ann Nevaizer  
B. Ann Nevaizer  
Secretary  
Medical Examining Board

Date August 19, 1992

## EXHIBIT 1

### Recommendation:

An assessment of Dr. Pelino shall include the following objectives:

1. Record keeping ability
2. Knowledge base and performance related to
  - a. Musculo-skeletal disease.
  - b. Cholesterol and lipoprotein metabolism and its disorders.
3. Communication abilities.

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
THOMAS P. PELINO, D.O.,	:	90 MED 279
RESPONDENT	:	

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It is hereby stipulated between Thomas P. Pelino, personally on his own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Dr. Pelino's licensure by the Division of Enforcement (90 MED 279). Dr. Pelino consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Dr. Pelino understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Dr. Pelino is aware of his right to seek legal representation and has obtained legal advice prior to signing this stipulation.


4. Dr. Pelino agrees to the adoption of the attached Final Decision and Order by the Medical Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. By this stipulation, Dr. Pelino consents to an assessment by the University of Wisconsin School of Medicine, Continuing Medical Education Program. If the assessment report concludes that continuing education is not recommended as a viable rehabilitative tool for Dr. Pelino, or if the terms of this Stipulation are not acceptable to the Board, this stipulation and order shall be null and void, and this matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this stipulation agree that the attached statement by

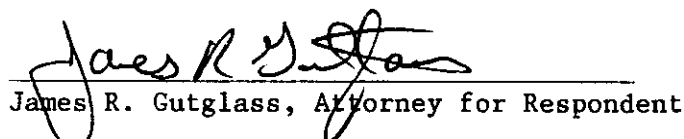
Dr. Pelino (Exhibit A) shall be included into the record of these proceedings. The parties further agree that Dr. Pelino's attorney, the attorney for the Division of Enforcement and the member of the Medical Examining Board assigned as an advisor in this investigation may appear before the Medical Examining Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

7. The Division of Enforcement joins Dr. Pelino in recommending the Medical Examining Board adopt this Stipulation and issue the attached Final Decision and Order.



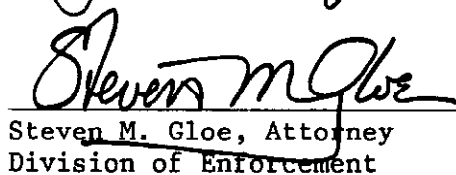
Thomas P. Pelino, D.O.

7/29/92  
Date



James R. Gutglass, Attorney for Respondent

7/29/92  
Date



Steven M. Gloe, Attorney  
Division of Enforcement

8.3.92  
Date

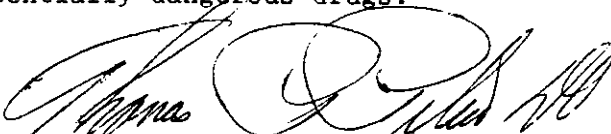
EXHIBIT A

STATEMENT

By this statement, Thomas P. Pelino, D.O. indicates to the Wisconsin Medical Examining Board his understanding that it is the position of both the Department of Regulation and Licensing Division of Enforcement and the Medical Examining Board that the use of anabolic steroids was not appropriate in this case.

Dr. Pelino's position in this matter is that his prescription of steroids in this case was appropriate at the time the prescriptions were made. Dr. Pelino further indicates to the Board that he is aware of Wisconsin Administrative Code §MED 10.02(2)(x)<sup>\*</sup>, which became effective after the events of this case (October 1, 1990).

Dr. Pelino understands and agrees that the purpose of §MED 10.02(2)(x) is to appropriately limit the prescription and/or provision of anabolic steroids as potentially dangerous drugs.

  
\_\_\_\_\_  
Thomas P. Pelino, D.O.

  
\_\_\_\_\_  
Date

<sup>\*</sup>§MED 10.02(2)(x) defines as unprofessional conduct:

Prescribing, ordering, dispensing, administering, supplying, selling or giving any anabolic steroid for the purposes of enhancing athletic performance or for other nonmedical purposes.



## NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,  
the times allowed for each, and the identification  
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

### 1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Medical Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

### 2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Medical Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Medical Examining Board.

The date of mailing of this decision is August 20, 1992.